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OBLON, SPIVAK

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4068-0002-0 PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

FRANCIS VANDERBIST ET AL

: ATTN: PCT LEGAL OFFICE

SERIAL NO: 09/424,247

FILED: NOVEMBER 30, 1999

: EXAMINERS: KRATZ, C.
SMITH, L.FOR: DRY POWDER INHALER
EXCIPIENT, PROCESS FOR
ITS PREPARATION AND
PHARMACEUTICAL COMPOSI-
TIONS CONTAINING ITDECLARATION OF PHILIPPE BAUDIERASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Now comes Philippe Baudier who avers that:

1. Paul Maes is one of three inventors of the invention of application PCT/BE98/000064, filed on May 7, 1998. That same day, Paul Maes assigned all of his rights to that application to Pharlyse and agreed to furnish all required signatures therefor as required; (see attached Exhibit 1);
2. Sometime during June, 1998, Paul Maes departed SMB/Pharlyse Company to join Biovail Corporation International in Canada (a competitor of all SMB/Pharlyse/Galephar);
3. One of the results of this change was that the application did not timely enter the national phase in either the United States or Canada;
4. On September 27, 1999, a letter addressed to Paul Maes was sent to his new employer's address (Biovail Corporation International, Toronto, Canada), requesting Paul

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Maes' new address, which letter was returned being marked "Refused" by the Canadian mail office (see attached Exhibit 2);

5. In receiving the Decision On Petitions for Revival and Acceptance of Declaration of May 5, 2000, from the U.S. Patent Office indicating that further evidence was necessary to establish the recalcitrance of Paul Maes, another attempt was made, by sending a letter to Paul Maes' last known residential address. This letter was also returned with the notation "Does no longer live at that address" (See attached Exhibit 3);

6. Yet another attempt was made, by sending a letter again to Biovail Corporation International in Toronto, Canada. This time the letter was received and a facsimile was sent back. (See attached Exhibit 4);

7. This facsimile provides another address for another Biovail facility. This facsimile also indicates that Paul Maes can be contacted at that location;

8. Unfortunately, since Paul Maes left SMB/Galephar for Biovail, he has attempted to obtain money in exchange for his signature on any further documents required for this application. While this is contrary to the Agreement shown in Exhibit 1, he, nevertheless, refuses to execute any documents. The exhibits attached to this Declaration clearly evidence Paul Maes' unwillingness to execute any further documents as required for this application.

9. The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under



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Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Further deponent sayeth not.

Philippe Baudier

Name

Baudier Philippe

Signature



Date

Sept. 20 - 2000

NFO/WEB:pae

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